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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,687	02/07/2001	Mark James Kline	8415	5337

27752 7590 11/05/2002

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EXAMINER

WEBB, JAMISUE A

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 11/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/778,687

Applicant(s)

KLINE ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4 and 19-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 is/are allowed.
- 6) ☒ Claim(s) 19-21 and 23-25 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. The indicated allowability of claims 19-25 is withdrawn in view of the newly discovered reference(s). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 19, 20, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Perrotta et al. (4,117,841).
4. With respect to Claim 19: Perrotta discloses the use of a medicated bandage that has a rupturable pocket confining a quantity of medicament (see abstract). The person using the bandage would be located externally of the bandage, the person being the effect generating element where the person would rupture the pocket of the bandage and the bandage would change from the condition of being non-medicated to be medicated.
5. With respect to Claim 20: the absorbent material would change properties from being medicated to non medicated.
6. With respect to Claim 24: After a certain amount of time the medicament would be used up, and therefore the medicated effects would be temporary.
7. With respect to Claim 25: The transformation involves contacting a first portion (the medicament) with a second portion (the absorbent material) (See all figures).

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8. Claims 19-21, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Lavon et al. (5,330,459).

9. With respect to Claim 19: Lavon discloses the use of a disposable diaper (20) that is worn externally of the body, where a person can be considered an external change aid that is an effect generating element, where the effect is using an inflatable component (200) to provide a spacer element to maintain a fecal void space intermediate the topsheet and backsheet (see abstract).

10. With respect to Claim 20 and 21: The inflation changes the size of the spacer.

11. With respect to Claim 24: Lavon discloses gas is allowed to be released as a tare less than 100cc/hour (column 5, lines 48-52), therefore the inflation being temporary.

12. With respect to Claim 25: the inflation would cause the spacer element to contact the topsheet and push up on the topsheet to further separate the topsheet from the backsheet.

13. Claims 19-21, and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hasse (5,769,832).

14. With respect to Claim 19: Hasse discloses the use of a disposable diaper (20) that is worn externally of the body, where a person can be considered an external change aid that is an effect generating element, where the effect is disengaging the adhesive tape fasteners from a release strip, to release perfume in the air (column 7, lines 52-65).

15. With respect to Claims 20, 21 and 23: When the tab is disengaged the adhesive is exposed and therefore increasing the tackiness of the tab fastener, and therefore activating.

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16. With respect to Claims 24 and 25: The adhesive tape could be attached to the backsheet (to fit the article around the wearer) and therefore the adhesive is not exposed and the tackiness is temporary.

Allowable Subject Matter

17. Claim 4 is allowed.

18. Claim 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fore (5,327,667) and Weinstein (5,961,500) disclose the use of absorbent pads with a liquid reservoir where liquid is released after the reservoir is broken, Ostubo (6,450,996) discloses the use of a sheet that can be pulled off of barrier cuffs, to allow the barrier cuffs to be flexible and extend, and Cunnings et al. (5,951,534) and Hasse (5,769,833) disclose perfume zones that are activated by pulling a release strip or breaking microcapsules.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the

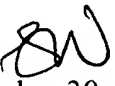
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organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw 
October 30, 2002


DENNIS RUHL
PRIMARY EXAMINER